



April 3, 2015

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# ENGROSSED

## SENATE BILL No. 559

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DIGEST OF SB 559 (Updated April 1, 2015 5:37 pm - DI 69)

**Citations Affected:** IC 5-2; IC 16-31; IC 20-28; IC 22-15; IC 25-1; IC 35-31.5; IC 35-37; IC 35-43; IC 35-46; IC 35-50.

**Synopsis:** Various criminal law matters. Adds unlawful possession of a firearm by a serious violent felon to the definition of "crimes of violence". Establishes new caps for consecutive sentences that result from a single episode of criminal conduct. Defines "emergency medical services provider". Provides that a person is a habitual offender if the state proves the person has been convicted of three prior unrelated felonies of any level. Allows the state to seek to have a person who allegedly committed a felony or misdemeanor, other than certain offenses, sentenced to an additional fixed term of imprisonment of between five and 20 years if the state can show beyond a reasonable doubt that the person, while committing the felony or misdemeanor, knowingly or intentionally: (1) pointed a firearm; or (2) discharged a firearm; at an individual whom the person knew, or reasonably should have known, was a police officer. Makes technical corrections.

**Effective:** July 1, 2015.

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**Young R Michael, Waltz,  
Miller Patricia, Schneider, Steele,  
Merritt, Crider**

(HOUSE SPONSOR — FRIZZELL)

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January 20, 2015, read first time and referred to Committee on Corrections & Criminal Law.

January 29, 2015, reported favorably — Do Pass.

February 3, 2015, read second time, amended, ordered engrossed.

February 4, 2015, engrossed.

February 5, 2015, read third time, passed. Yeas 42, nays 6.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Courts and Criminal Code.

April 2, 2015, amended, reported — Do Pass.

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ES 559—LS 7082/DI 106





April 3, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## ENGROSSED SENATE BILL No. 559

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-2-6.1-8, AS AMENDED BY P.L.48-2012,  
2       SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 8. As used in this chapter, "violent crime" means  
4       the following:

5           (1) A crime under the Indiana Code that is a felony of any kind or  
6           a Class A misdemeanor that results in bodily injury or death to the  
7           victim but does not include any of the following:

8               (A) A crime under IC 9-30-5 resulting from the operation of a  
9               vehicle other than a motor vehicle.

10              (B) Involuntary manslaughter resulting from the operation of  
11              a motor vehicle by a person who was not intoxicated  
12              (IC 35-42-1-4).

13              (C) Reckless homicide resulting from the operation of a motor  
14              vehicle by a person who was not intoxicated (IC 35-42-1-5).

15              (D) Criminal recklessness involving the use of a motor  
16              vehicle, unless the offense was intentional or the person using

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the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(F) Battery upon a child (~~IC 35-42-2-1(a)(2)(B)~~): **less than fourteen (14) years of age (IC 35-42-2-1).**

(G) Child molesting (IC 35-42-4-3).

(H) Child seduction (IC 35-42-4-7).

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 2. IC 5-2-6.1-16, AS AMENDED BY P.L.48-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) Except as provided in subsection (e), the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in subsection (e), the division may not accept an application that is received more than two (2) years after the date the



1 crime was committed.

2 (c) The application must be filed in the office of the division in  
3 person, through the division's web site, or by first class or certified  
4 mail. If requested, the division shall assist a victim in preparing the  
5 application.

6 (d) The division shall accept all applications filed in compliance  
7 with this chapter. Upon receipt of a complete application, the division  
8 shall promptly begin the investigation and processing of an application.

9 (e) An alleged victim of a child sex crime may submit an application  
10 to the division until the victim becomes thirty-one (31) years of age.

11 (f) An alleged victim of a battery upon a child **less than fourteen**  
12 **(14) years of age** under ~~IC 35-42-2-1(a)(2)(B)~~ **IC 35-42-2-1** may  
13 submit an application to the division not later than five (5) years after  
14 the commission of the offense.

15 SECTION 3. IC 16-31-3-14.5, AS AMENDED BY P.L.196-2013,  
16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2015]: Sec. 14.5. The department of homeland security may  
18 issue an order under IC 4-21.5-3-6 to deny an applicant's request for  
19 certification or licensure or permanently revoke a certificate or license  
20 under procedures provided by section 14 of this chapter if the  
21 individual who holds the certificate or license issued under this title is  
22 convicted of any of the following:

23 (1) Dealing in or manufacturing cocaine or a narcotic drug under  
24 IC 35-48-4-1.

25 (2) Dealing in methamphetamine under IC 35-48-4-1.1.

26 (3) Dealing in a schedule I, II, or III controlled substance under  
27 IC 35-48-4-2.

28 (4) Dealing in a schedule IV controlled substance under  
29 IC 35-48-4-3.

30 (5) Dealing in a schedule V controlled substance under  
31 IC 35-48-4-4.

32 (6) Dealing in a substance represented to be a controlled  
33 substance under IC 35-48-4-4.5.

34 (7) Knowingly or intentionally manufacturing, advertising,  
35 distributing, or possessing with intent to manufacture, advertise,  
36 or distribute a substance represented to be a controlled substance  
37 under IC 35-48-4-4.6.

38 (8) Dealing in a counterfeit substance under IC 35-48-4-5.

39 (9) Dealing in marijuana, hash oil, hashish, or salvia **as a felony**  
40 under ~~IC 35-48-4-10(b)~~ **IC 35-48-4-10**.

41 (10) Dealing in a synthetic drug or synthetic drug lookalike  
42 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b))



before its amendment in 2013).

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

(12) Attempt under IC 35-41-5-1 to commit an offense listed in this section.

(13) A crime of violence (as defined in IC 35-50-1-2(a)).

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under this section.

SECTION 4. IC 20-28-5-8, AS AMENDED BY P.L.168-2014, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

(1) The state superintendent.

(2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.

(3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

(1) Kidnapping (IC 35-42-3-2).

(2) Criminal confinement (IC 35-42-3-3).

(3) Rape (IC 35-42-4-1).

(4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(5) Child molesting (IC 35-42-4-3).

(6) Child exploitation (IC 35-42-4-4(b)).

(7) Vicarious sexual gratification (IC 35-42-4-5).



- 1 (8) Child solicitation (IC 35-42-4-6).
- 2 (9) Child seduction (IC 35-42-4-7).
- 3 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 4 (11) Incest (IC 35-46-1-3).
- 5 (12) Dealing in or manufacturing cocaine or a narcotic drug
- 6 (IC 35-48-4-1).
- 7 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 8 (14) Dealing in a schedule I, II, or III controlled substance
- 9 (IC 35-48-4-2).
- 10 (15) Dealing in a schedule IV controlled substance
- 11 (IC 35-48-4-3).
- 12 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 13 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 14 (18) Dealing in marijuana, hash oil, hashish, or salvia **as a felony**
- 15 ~~(IC 35-48-4-10(b))~~; **(IC 35-48-4-10)**.
- 16 (19) Dealing in a synthetic drug or synthetic drug lookalike
- 17 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
- 18 amendment in 2013).
- 19 (20) Possession of child pornography (IC 35-42-4-4(c)).
- 20 (21) Homicide (IC 35-42-1).
- 21 (22) Voluntary manslaughter (IC 35-42-1-3).
- 22 (23) Reckless homicide (IC 35-42-1-5).
- 23 (24) Battery as any of the following:
- 24 (A) A Class A felony (for a crime committed before July 1,
- 25 2014) or a Level 2 felony (for a crime committed after June
- 26 30, 2014).
- 27 (B) A Class B felony (for a crime committed before July 1,
- 28 2014) or a Level 3 felony (for a crime committed after June
- 29 30, 2014).
- 30 (C) A Class C felony (for a crime committed before July 1,
- 31 2014) or a Level 5 felony (for a crime committed after June
- 32 30, 2014).
- 33 (25) Aggravated battery (IC 35-42-2-1.5).
- 34 (26) Robbery (IC 35-42-5-1).
- 35 (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 36 (28) Arson as a Class A felony or Class B felony (for a crime
- 37 committed before July 1, 2014) or as a Level 2, Level 3, or Level
- 38 4 felony (for a crime committed after June 30, 2014)
- 39 (IC 35-43-1-1(a)).
- 40 (29) Burglary as a Class A felony or Class B felony (for a crime
- 41 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
- 42 or Level 4 felony (for a crime committed after June 30, 2014)



(IC 35-43-2-1).

(30) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(31) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(d) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony listed in subsection (c).

(e) A license may be suspended by the state superintendent as specified in IC 20-28-7.5.

(f) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

SECTION 5. IC 22-15-5-16, AS AMENDED BY P.L.168-2014, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;

(5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(7) continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a





- practitioner's ability to practice safely;
- (8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;
- (10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;
- (11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter;
- or
- (12) allowed a license issued by the department to be:
- (A) used by another person; or
  - (B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

- (1) Permanent revocation of a practitioner's license.
- (2) Suspension of a practitioner's license.
- (3) Censure of a practitioner.
- (4) Issuance of a letter of reprimand.
- (5) Assess a civil penalty against the practitioner in accordance with the following:
  - (A) The civil penalty may not be more than one thousand dollars (\$1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or mental disability.
  - (B) When imposing a civil penalty, the department shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.
- (6) Place a practitioner on probation status and require the practitioner to:



(A) report regularly to the department upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department;

(C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:



- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
- (5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.
- (9) Possession of a synthetic drug or synthetic drug lookalike substance as a:
  - (A) Class D felony for a crime committed before July 1, 2014, under:
    - (i) IC 35-48-4-11, before its amendment in 2013; or
    - (ii) IC 35-48-4-11.5; or
  - (B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.
- (10) Maintaining a common nuisance under IC 35-48-4-13.
- (11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
- (12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.
- (13) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.
- (14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.
- (h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:
  - (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
  - (2) Dealing in methamphetamine under IC 35-48-4-1.1.



(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, or salvia **as a felony** under ~~IC 35-48-4-10(b)~~ **IC 35-48-4-10**.

(10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(12) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(14) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.



1 (m) The department shall conduct a fact finding investigation as the  
2 department considers proper in relation to the complaint.

3 (n) The department may reinstate a license that has been suspended  
4 under this section if, after a hearing, the department is satisfied that the  
5 applicant is able to practice with reasonable skill, safety, and  
6 competency to the public. As a condition of reinstatement, the  
7 department may impose disciplinary or corrective measures authorized  
8 under this chapter.

9 (o) The department may not reinstate a license that has been  
10 revoked under this chapter. An individual whose license has been  
11 revoked under this chapter may not apply for a new license until seven  
12 (7) years after the date of revocation.

13 (p) The department shall seek to achieve consistency in the  
14 application of sanctions authorized in this chapter. Significant  
15 departures from prior decisions involving similar conduct must be  
16 explained in the department's findings or orders.

17 (q) A practitioner may petition the department to accept the  
18 surrender of the practitioner's license instead of having a hearing before  
19 the commission. The practitioner may not surrender the practitioner's  
20 license without the written approval of the department, and the  
21 department may impose any conditions appropriate to the surrender or  
22 reinstatement of a surrendered license.

23 (r) A practitioner who has been subjected to disciplinary sanctions  
24 may be required by the commission to pay the costs of the proceeding.  
25 The practitioner's ability to pay shall be considered when costs are  
26 assessed. If the practitioner fails to pay the costs, a suspension may not  
27 be imposed solely upon the practitioner's inability to pay the amount  
28 assessed. The costs are limited to costs for the following:

- 29 (1) Court reporters.
- 30 (2) Transcripts.
- 31 (3) Certification of documents.
- 32 (4) Photo duplication.
- 33 (5) Witness attendance and mileage fees.
- 34 (6) Postage.
- 35 (7) Expert witnesses.
- 36 (8) Depositions.
- 37 (9) Notarizations.

38 SECTION 6. IC 25-1-1.1-3, AS AMENDED BY P.L.196-2013,  
39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2015]: Sec. 3. A board, a commission, or a committee shall  
41 revoke or suspend a license or certificate issued under this title by the  
42 board, the commission, or the committee if the individual who holds



the license or certificate is convicted of any of the following:

- (1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.
- (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- (3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
- (4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
- (5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
- (6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
- (7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
- (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- (9) Dealing in marijuana, hash oil, hashish, or salvia **as a felony** under ~~IC 35-48-4-10(b)~~ **IC 35-48-4-10**.
- (10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).
- (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.
- (12) Attempt under IC 35-41-5-1 to commit an offense listed in this section.
- (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.
- (14) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

SECTION 7. IC 35-31.5-2-115.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 115.5. "Emergency medical services provider" has the meaning set forth in IC 16-41-10-1.**

SECTION 8. IC 35-31.5-2-185, AS AMENDED BY P.L.172-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 185. (a) "Law enforcement officer" means:

- (1) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;



- (2) a deputy of any of those persons;
- (3) an investigator for a prosecuting attorney or for the inspector general;
- (4) a conservation officer;
- (5) an enforcement officer of the alcohol and tobacco commission;
- (6) an enforcement officer of the securities division of the office of the secretary of state; or
- (7) a gaming agent employed under IC 4-33-4.5 or a gaming control officer employed by the gaming control division under IC 4-33-20.

(b) "Law enforcement officer", for purposes of IC 35-42-2-1, includes an alcoholic beverage enforcement officer, as set forth in ~~IC 35-42-2-1(b)(1)~~. **IC 35-42-2-1.**

(c) "Law enforcement officer", for purposes of IC 35-45-15, includes a federal enforcement officer, as set forth in IC 35-45-15-3.

(d) "Law enforcement officer", for purposes of IC 35-44.1-3-1 and IC 35-44.1-3-2, includes a school resource officer (as defined in IC 20-26-18.2-1) and a school corporation police officer appointed under IC 20-26-16.

SECTION 9. IC 35-31.5-2-236.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 236.8. "Police officer", for purposes of IC 35-50-2-11, has the meaning set forth in IC 35-50-2-11.**

SECTION 10. IC 35-31.5-2-260.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 260.2. "Public safety official", for purposes of IC 35-42-2-1, has the meaning set forth in IC 35-42-2-1.**

SECTION 11. IC 35-37-4-6, AS AMENDED BY P.L.28-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

- (1) Sex crimes (IC 35-42-4).
- (2) Battery upon a child **less than fourteen (14) years of age** (~~IC 35-42-2-1(a)(2)(B))~~. **(IC 35-42-2-1).**
- (3) Kidnapping and confinement (IC 35-42-3).
- (4) Incest (IC 35-46-1-3).
- (5) Neglect of a dependent (IC 35-46-1-4).
- (6) Human and sexual trafficking crimes (IC 35-42-3.5).



- 1 (7) An attempt under IC 35-41-5-1 for an offense listed in
- 2 subdivisions (1) through (6).
- 3 (b) This section applies to a criminal action involving the following
- 4 offenses where the victim is a protected person under subsection (c)(3):
- 5 (1) Exploitation of a dependent or endangered adult
- 6 (IC 35-46-1-12).
- 7 (2) A sex crime (IC 35-42-4).
- 8 (3) Battery (IC 35-42-2-1).
- 9 (4) Kidnapping, confinement, or interference with custody
- 10 (IC 35-42-3).
- 11 (5) Home improvement fraud (IC 35-43-6).
- 12 (6) Fraud (IC 35-43-5).
- 13 (7) Identity deception (IC 35-43-5-3.5).
- 14 (8) Synthetic identity deception (IC 35-43-5-3.8).
- 15 (9) Theft (IC 35-43-4-2).
- 16 (10) Conversion (IC 35-43-4-3).
- 17 (11) Neglect of a dependent (IC 35-46-1-4).
- 18 (12) Human and sexual trafficking crimes (IC 35-42-3.5).
- 19 (c) As used in this section, "protected person" means:
- 20 (1) a child who is less than fourteen (14) years of age;
- 21 (2) an individual with a mental disability who has a disability
- 22 attributable to an impairment of general intellectual functioning
- 23 or adaptive behavior that:
- 24 (A) is manifested before the individual is eighteen (18) years
- 25 of age;
- 26 (B) is likely to continue indefinitely;
- 27 (C) constitutes a substantial impairment of the individual's
- 28 ability to function normally in society; and
- 29 (D) reflects the individual's need for a combination and
- 30 sequence of special, interdisciplinary, or generic care,
- 31 treatment, or other services that are of lifelong or extended
- 32 duration and are individually planned and coordinated; or
- 33 (3) an individual who is:
- 34 (A) at least eighteen (18) years of age; and
- 35 (B) incapable by reason of mental illness, mental retardation,
- 36 dementia, or other physical or mental incapacity of:
- 37 (i) managing or directing the management of the individual's
- 38 property; or
- 39 (ii) providing or directing the provision of self-care.
- 40 (d) A statement or videotape that:
- 41 (1) is made by a person who at the time of trial is a protected
- 42 person;





(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and

(3) is not otherwise admissible in evidence; is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:

(A) conducted outside the presence of the jury; and

(B) attended by the protected person in person or by using closed circuit television testimony as described in section 8(f) and 8(g) of this chapter;

that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one

(1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement



1 or videotape in evidence; and

2 (2) the content of the statement or videotape.

3 (h) If a statement or videotape is admitted in evidence under this  
4 section, the court shall instruct the jury that it is for the jury to  
5 determine the weight and credit to be given the statement or videotape  
6 and that, in making that determination, the jury shall consider the  
7 following:

8 (1) The mental and physical age of the person making the  
9 statement or videotape.

10 (2) The nature of the statement or videotape.

11 (3) The circumstances under which the statement or videotape  
12 was made.

13 (4) Other relevant factors.

14 (i) If a statement or videotape described in subsection (d) is  
15 admitted into evidence under this section, a defendant may introduce  
16 a:

17 (1) transcript; or

18 (2) videotape;

19 of the hearing held under subsection (e)(1) into evidence at trial.

20 SECTION 12. IC 35-37-4-8, AS AMENDED BY P.L.173-2006,  
21 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2015]: Sec. 8. (a) This section applies to a criminal action  
23 under the following:

24 (1) Sex crimes (IC 35-42-4).

25 (2) Battery upon a child **less than fourteen (14) years of age**  
26 ~~(IC 35-42-2-1(a)(2)(B))~~: **(IC 35-42-2-1)**.

27 (3) Kidnapping and confinement (IC 35-42-3).

28 (4) Incest (IC 35-46-1-3).

29 (5) Neglect of a dependent (IC 35-46-1-4).

30 (6) Human and sexual trafficking crimes (IC 35-42-3.5).

31 (7) An attempt under IC 35-41-5-1 for an offense listed in  
32 subdivisions (1) through (6).

33 (b) As used in this section, "protected person" has the meaning set  
34 forth in section 6 of this chapter.

35 (c) On the motion of the prosecuting attorney, the court may order  
36 that the testimony of a protected person be taken in a room other than  
37 the courtroom, and that the questioning of the protected person by the  
38 prosecution and the defense be transmitted using a two-way closed  
39 circuit television arrangement that:

40 (1) allows the protected person to see the accused and the trier of  
41 fact; and

42 (2) allows the accused and the trier of fact to see and hear the



1           protected person.

2           (d) On the motion of the prosecuting attorney or the defendant, the  
3 court may order that the testimony of a protected person be videotaped  
4 for use at trial. The videotaping of the testimony of a protected person  
5 under this subsection must meet the requirements of subsection (c).

6           (e) The court may not make an order under subsection (c) or (d)  
7 unless:

8           (1) the testimony to be taken is the testimony of a protected  
9 person who:

10           (A) is the alleged victim of an offense listed in subsection (a)  
11 for which the defendant is being tried or is a witness in a trial  
12 for an offense listed in subsection (a); and

13           (B) is found by the court to be a protected person who should  
14 be permitted to testify outside the courtroom because:

15           (i) the court finds from the testimony of a psychiatrist,  
16 physician, or psychologist and any other evidence that the  
17 protected person's testifying in the physical presence of the  
18 defendant would cause the protected person to suffer serious  
19 emotional harm and the court finds that the protected person  
20 could not reasonably communicate in the physical presence  
21 of the defendant to the trier of fact;

22           (ii) a physician has certified that the protected person cannot  
23 be present in the courtroom for medical reasons; or

24           (iii) evidence has been introduced concerning the effect of  
25 the protected person's testifying in the physical presence of  
26 the defendant, and the court finds that it is more likely than  
27 not that the protected person's testifying in the physical  
28 presence of the defendant creates a substantial likelihood of  
29 emotional or mental harm to the protected person;

30           (2) the prosecuting attorney has informed the defendant and the  
31 defendant's attorney of the intention to have the protected person  
32 testify outside the courtroom; and

33           (3) the prosecuting attorney informed the defendant and the  
34 defendant's attorney under subdivision (2) at least ten (10) days  
35 before the trial of the prosecuting attorney's intention to have the  
36 protected person testify outside the courtroom.

37           (f) If the court makes an order under subsection (c), only the  
38 following persons may be in the same room as the protected person  
39 during the protected person's testimony:

40           (1) A defense attorney if:

41           (A) the defendant is represented by the defense attorney; and

42           (B) the prosecuting attorney is also in the same room.



(2) The prosecuting attorney if:

(A) the defendant is represented by a defense attorney; and

(B) the defense attorney is also in the same room.

(3) Persons necessary to operate the closed circuit television equipment.

(4) Persons whose presence the court finds will contribute to the protected person's well-being.

(5) A court bailiff or court representative.

(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:

(1) The judge.

(2) The prosecuting attorney.

(3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the protected person's well-being.

(7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.

(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:

(1) The prosecuting attorney.

(2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(3) The judge.

SECTION 13. IC 35-43-6-13, AS AMENDED BY P.L.158-2013, SECTION 490, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) The offense in section 12(a) of this chapter is a Class A misdemeanor:

(1) in the case of an offense under section 12(a)(1) through 12(a)(4) of this chapter or section 12(a)(6) through 12(a)(9) of this chapter, if the home improvement contract price is one thousand dollars (\$1,000) or more;

(2) for the second or subsequent offense under this chapter or in another jurisdiction for an offense that is substantially similar to another offense described in this chapter;

(3) if two (2) or more home improvement contracts exceed an



1 aggregate amount of one thousand dollars (\$1,000) and are  
 2 entered into with the same consumer by one (1) or more suppliers  
 3 as part of or in furtherance of a common fraudulent scheme,  
 4 design, or intention; or  
 5 (4) if, in a violation of section 12(a)(5) of this chapter, the home  
 6 improvement contract price is at least seven thousand dollars  
 7 (\$7,000), but less than ten thousand dollars (\$10,000).

8 (b) The offense in section 12 of this chapter is a Level 6 felony:

9 (1) if, in a violation of section 12(a)(5) of this chapter, the home  
 10 improvement contract price is ~~more than~~ **at least** ten thousand  
 11 dollars (\$10,000);

12 (2) if, in a violation of:

13 (A) section 12(a)(1) through 12(a)(5); or

14 (B) section 12(a)(7) through 12(a)(9);

15 of this chapter, the consumer is at least sixty (60) years of age and  
 16 the home improvement contract price is ~~less than~~ ten thousand  
 17 dollars (\$10,000); ~~or less~~;

18 (3) if, in a violation of section 12(b) of this chapter, the consumer  
 19 is at least sixty (60) years of age; or

20 (4) if the home improvement supplier violates more than one (1)  
 21 subdivision of section 12(a) of this chapter.

22 (c) The offense in section 12(a) of this chapter is a Level 5 felony:

23 (1) if, in a violation of:

24 (A) section 12(a)(1) through 12(a)(5); or

25 (B) section 12(a)(7) through 12(a)(9);

26 of this chapter, the consumer is at least sixty (60) years of age and  
 27 the home improvement contract price is ~~more than~~ **at least** ten  
 28 thousand dollars (\$10,000); or

29 (2) if, in a violation of:

30 (A) section 12(a)(1) through 12(a)(4); or

31 (B) section 12(a)(7) through 12(a)(9);

32 of this chapter, the consumer is at least sixty (60) years of age,  
 33 and two (2) or more home improvement contracts exceed an  
 34 aggregate amount of one thousand dollars (\$1,000) and are  
 35 entered into with the same consumer by one (1) or more suppliers  
 36 as part of or in furtherance of a common fraudulent scheme,  
 37 design, or intention.

38 SECTION 14. IC 35-46-1-13, AS AMENDED BY P.L.153-2011,  
 39 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2015]: Sec. 13. (a) A person who:

41 (1) believes or has reason to believe that an endangered adult **or**  
 42 **person of any age who has a mental or physical disability** is



the victim of battery, neglect, or exploitation as prohibited by this chapter ~~IC 35-42-2-1(a)(2)(C)~~, or ~~IC 35-42-2-1(a)(2)(E)~~; **IC 35-42-2-1**; and

(2) knowingly fails to report the facts supporting that belief to the division of disability and rehabilitative services, the division of aging, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult; commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of aging under IC 12-10-3-12 through IC 12-10-3-15 commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult **or person of any age who has a mental or physical disability** is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter ~~IC 35-42-2-1(a)(2)(C)~~, or ~~IC 35-42-2-1(a)(2)(E)~~ **IC 35-42-2-1** shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

SECTION 15. IC 35-46-1-14, AS AMENDED BY P.L.2-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. Any person acting in good faith who:

(1) makes or causes to be made a report of neglect, battery, or exploitation under this chapter ~~IC 35-42-2-1(a)(2)(C)~~, or ~~IC 35-42-2-1(a)(2)(E)~~; **IC 35-42-2-1 concerning an endangered adult or person of any age who has a mental or physical disability**;

(2) makes or causes to be made photographs or x-rays of a victim of suspected neglect or battery of an endangered adult or a dependent eighteen (18) years of age or older; or

(3) participates in any official proceeding or a proceeding resulting from a report of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older relating to the subject matter of that report;

is immune from any civil or criminal liability that might otherwise be



imposed because of these actions. However, this section does not apply to a person accused of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older.

SECTION 16. IC 35-50-1-2, AS AMENDED BY P.L.168-2014, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) As used in this section, "crime of violence" means the following:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
- (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
- (14) Operating a vehicle while intoxicated causing death (IC 9-30-5-5).
- (15) Operating a vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).
- (16) Resisting law enforcement as a felony (IC 35-44.1-3-1).
- (17) Unlawful possession of a firearm by a serious violent felon (IC 35-47-4-5).**

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection ~~(d)~~ or (e) or (f) the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

- (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- (2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive



of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10 (before its repeal) to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the ~~advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted;~~ period described in subsection (d).

(d) Except as provided in subsection (c), the total of the consecutive terms of imprisonment to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct may not exceed the following:

(1) If the most serious crime for which the defendant is sentenced is a Level 6 felony, the total of the consecutive terms of imprisonment may not exceed four (4) years.

(2) If the most serious crime for which the defendant is sentenced is a Level 5 felony, the total of the consecutive terms of imprisonment may not exceed seven (7) years.

(3) If the most serious crime for which the defendant is sentenced is a Level 4 felony, the total of the consecutive terms of imprisonment may not exceed fifteen (15) years.

(4) If the most serious crime for which the defendant is sentenced is a Level 3 felony, the total of the consecutive terms of imprisonment may not exceed twenty (20) years.

(5) If the most serious crime for which the defendant is sentenced is a Level 2 felony, the total of the consecutive terms of imprisonment may not exceed thirty-two (32) years.

(6) If the most serious crime for which the defendant is sentenced is a Level 1 felony, the total of the consecutive terms of imprisonment may not exceed forty-two (42) years.

~~(d)~~ (e) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

~~(e)~~ (f) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11





1 must be served consecutively.

2 SECTION 17. IC 35-50-2-8, AS AMENDED BY P.L.168-2014,  
3 SECTION 118, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The state may seek to have a  
5 person sentenced as a habitual offender for a felony by alleging, on one  
6 (1) or more pages separate from the rest of the charging instrument,  
7 that the person has accumulated the required number of prior unrelated  
8 felony convictions in accordance with this section.

9 (b) A person convicted of murder or of a Level 1 through Level 4  
10 felony is a habitual offender if the state proves beyond a reasonable  
11 doubt that:

12 (1) the person has been convicted of two (2) prior unrelated  
13 felonies; and

14 (2) at least one (1) of the prior unrelated felonies is not a Level 6  
15 felony or a Class D felony.

16 (c) A person convicted of a Level 5 felony is a habitual offender if  
17 the state proves beyond a reasonable doubt that:

18 (1) the person has been convicted of two (2) prior unrelated  
19 felonies;

20 (2) at least one (1) of the prior unrelated felonies is not a Level 6  
21 felony or a Class D felony; and

22 (3) if the person is alleged to have committed a prior unrelated:

23 (A) Level 5 felony;

24 (B) Level 6 felony;

25 (C) Class C felony; or

26 (D) Class D felony;

27 not more than ten (10) years have elapsed between the time the  
28 person was released from imprisonment, probation, or parole  
29 (whichever is latest) and the time the person committed the  
30 current offense.

31 (d) A person convicted of a ~~Level 6~~ felony **offense** is a habitual  
32 offender if the state proves beyond a reasonable doubt that:

33 (1) the person has been convicted of three (3) prior unrelated  
34 felonies; and

35 (2) if the person is alleged to have committed a prior unrelated:

36 (A) Level 5 felony;

37 (B) Level 6 felony;

38 (C) Class C felony; or

39 (D) Class D felony;

40 not more than ten (10) years have elapsed between the time the  
41 person was released from imprisonment, probation, or parole  
42 (whichever is latest) and the time the person committed the



1 current offense.

2 (e) The state may not seek to have a person sentenced as a habitual  
3 offender for a felony offense under this section if the current offense is  
4 a misdemeanor that is enhanced to a felony in the same proceeding as  
5 the habitual offender proceeding solely because the person had a prior  
6 unrelated conviction. However, a prior unrelated felony conviction may  
7 be used to support a habitual offender determination even if the  
8 sentence for the prior unrelated offense was enhanced for any reason,  
9 including an enhancement because the person had been convicted of  
10 another offense.

11 (f) A person has accumulated two (2) or three (3) prior unrelated  
12 felony convictions for purposes of this section only if:

13 (1) the second prior unrelated felony conviction was committed  
14 after commission of and sentencing for the first prior unrelated  
15 felony conviction;

16 (2) the offense for which the state seeks to have the person  
17 sentenced as a habitual offender was committed after commission  
18 of and sentencing for the second prior unrelated felony  
19 conviction; and

20 (3) for a conviction requiring proof of three (3) prior unrelated  
21 felonies, the third prior unrelated felony conviction was  
22 committed after commission of and sentencing for the second  
23 prior unrelated felony conviction.

24 (g) A conviction does not count for purposes of this section as a  
25 prior unrelated felony conviction if:

26 (1) the conviction has been set aside; or

27 (2) the conviction is one for which the person has been pardoned.

28 (h) If the person was convicted of the felony in a jury trial, the jury  
29 shall reconvene for the sentencing hearing. If the trial was to the court  
30 or the judgment was entered on a guilty plea, the court alone shall  
31 conduct the sentencing hearing under IC 35-38-1-3. The role of the jury  
32 is to determine whether the defendant has been convicted of the  
33 unrelated felonies. The state or defendant may not conduct any  
34 additional interrogation or questioning of the jury during the habitual  
35 offender part of the trial.

36 (i) The court shall sentence a person found to be a habitual offender  
37 to an additional fixed term that is between:

38 (1) six (6) years and twenty (20) years, for a person convicted of  
39 murder or a Level 1 through Level 4 felony; or

40 (2) two (2) years and six (6) years, for a person convicted of a  
41 Level 5 or Level 6 felony.

42 An additional term imposed under this subsection is nonsuspendible.



(j) Habitual offender is a status that results in an enhanced sentence. It is not a separate crime and does not result in a consecutive sentence. The court shall attach the habitual offender enhancement to the felony conviction with the highest sentence imposed and specify which felony count is being enhanced. If the felony enhanced by the habitual offender determination is set aside or vacated, the court shall resentence the person and apply the habitual offender enhancement to the felony conviction with the next highest sentence in the underlying cause, if any.

(k) A prior unrelated felony conviction may not be collaterally attacked during a habitual offender proceeding unless the conviction is constitutionally invalid.

(l) The procedural safeguards that apply to other criminal charges, including:

(1) the requirement that the charge be filed by information or indictment; and

(2) the right to an initial hearing;

also apply to a habitual offender allegation.

SECTION 18. IC 35-50-2-11, AS AMENDED BY P.L.152-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "offense" means:

(1) a felony under IC 35-42 that resulted in death or serious bodily injury;

(2) kidnapping; or

(3) criminal confinement as a Level 2 or Level 3 felony.

(c) As used in this section, "police officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A city police officer.

(5) A state educational institution police officer appointed under IC 21-39-4.

(6) A school corporation police officer appointed under IC 20-26-16.

(7) A police officer of a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2.

(8) An enforcement officer of the alcohol and tobacco commission.



**(9) A conservation officer.**

~~(c)~~ **(d)** The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

**(e) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed a felony or misdemeanor other than an offense (as defined under subsection (b)) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing the felony or misdemeanor, knowingly or intentionally:**

**(1) pointed a firearm; or**

**(2) discharged a firearm;**

**at an individual whom the person knew, or reasonably should have known, was a police officer.**

~~(d)~~ **(f)** If the person was convicted of:

**(1) the offense under subsection (d); or**

**(2) the felony or misdemeanor under subsection (e);**

in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

~~(e)~~ **(g)** If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense **under subsection (d)**, the court may sentence the person to an additional fixed term of imprisonment of between five (5) years and twenty (20) years.

**(h) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing a felony or misdemeanor under subsection (e), knowingly or intentionally:**

**(1) pointed a firearm; or**

**(2) discharged a firearm;**

**at an individual whom the person knew, or reasonably should have known, was a police officer, the court may sentence the person to an additional fixed term of imprisonment of between five (5) and twenty (20) years.**

**(i) A person may not be sentenced under subsections (g) and (h) for offenses, felonies, and misdemeanors comprising a single**



1 **episode of criminal conduct.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections & Criminal Law, to which was referred Senate Bill No. 559, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 559 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 6, Nays 2

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SENATE MOTION

Madam President: I move that Senate Bill 559 be amended to read as follows:

Page 23, line 14, delete "person" and insert "**person, while committing an offense,**".

Page 23, line 18, after "at" insert "**an individual whom the person knew, or reasonably should have known, was**".

Page 23, line 18, delete "officer while committing an offense." and insert "**officer.**".

Page 23, line 31, delete "person" and insert "**person, while committing an offense,**".

Page 23, line 34, after "at" insert "**an individual whom the person knew, or reasonably should have known, was**".

Page 23, line 34, delete "officer while committing an offense," and insert "**officer,**".

(Reference is to SB 559 as printed January 30, 2015.)

GLICK

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SENATE MOTION

Madam President: I move that Senate Bill 559 be amended to read as follows:

Page 13, between lines 20 and 21, begin a new paragraph and insert: "SECTION 9. IC 35-31.5-2-236.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 236.8. "Police officer", for**

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purposes of IC 35-50-2-11, has the meaning set forth in IC 35-50-2-11."

Page 23, between lines 5 and 6, begin a new paragraph and insert:

"(c) As used in this section, **"police officer"** means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A city police officer.
- (5) A state educational institution police officer appointed under IC 21-39-4.
- (6) A school corporation police officer appointed under IC 20-26-16.
- (7) A police officer of a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2.
- (8) An enforcement officer of the alcohol and tobacco commission.
- (9) A conservation officer."

Page 23, line 6, strike "(c)" and insert "(d)".

Page 23, line 11, delete "(d)" and insert "(e)".

Page 23, line 18, delete "law enforcement" and insert **"police"**.

Page 23, line 19, delete "(e)" and insert "(f)".

Page 23, line 23, delete "(f)" and insert "(g)".

Page 23, line 29, delete "(g)" and insert "(h)".

Page 23, line 34, delete "law enforcement" and insert **"police"**.

Page 23, line 37, delete "(h)" and insert "(i)".

Page 23, line 37, delete "(f)" and insert "(g)".

Page 23, line 38, delete "(g)" and insert "(h)".

Renumber all SECTIONS consecutively.

(Reference is to SB 559 as printed January 30, 2015.)

TAYLOR



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 559, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 23, delete lines 2 through 42, begin a new paragraph and insert:

"SECTION 17. IC 35-50-2-8, AS AMENDED BY P.L.168-2014, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The state may seek to have a person sentenced as a habitual offender for a felony by alleging, on one (1) or more pages separate from the rest of the charging instrument, that the person has accumulated the required number of prior unrelated felony convictions in accordance with this section.

(b) A person convicted of murder or of a Level 1 through Level 4 felony is a habitual offender if the state proves beyond a reasonable doubt that:

- (1) the person has been convicted of two (2) prior unrelated felonies; and
- (2) at least one (1) of the prior unrelated felonies is not a Level 6 felony or a Class D felony.

(c) A person convicted of a Level 5 felony is a habitual offender if the state proves beyond a reasonable doubt that:

- (1) the person has been convicted of two (2) prior unrelated felonies;
- (2) at least one (1) of the prior unrelated felonies is not a Level 6 felony or a Class D felony; and
- (3) if the person is alleged to have committed a prior unrelated:
  - (A) Level 5 felony;
  - (B) Level 6 felony;
  - (C) Class C felony; or
  - (D) Class D felony;

not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) and the time the person committed the current offense.

(d) A person convicted of a ~~Level 6~~ **offense** is a habitual offender if the state proves beyond a reasonable doubt that:

- (1) the person has been convicted of three (3) prior unrelated felonies; and
- (2) if the person is alleged to have committed a prior unrelated:





- (A) Level 5 felony;
- (B) Level 6 felony;
- (C) Class C felony; or
- (D) Class D felony;

not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) and the time the person committed the current offense.

(e) The state may not seek to have a person sentenced as a habitual offender for a felony offense under this section if the current offense is a misdemeanor that is enhanced to a felony in the same proceeding as the habitual offender proceeding solely because the person had a prior unrelated conviction. However, a prior unrelated felony conviction may be used to support a habitual offender determination even if the sentence for the prior unrelated offense was enhanced for any reason, including an enhancement because the person had been convicted of another offense.

(f) A person has accumulated two (2) or three (3) prior unrelated felony convictions for purposes of this section only if:

- (1) the second prior unrelated felony conviction was committed after commission of and sentencing for the first prior unrelated felony conviction;
- (2) the offense for which the state seeks to have the person sentenced as a habitual offender was committed after commission of and sentencing for the second prior unrelated felony conviction; and
- (3) for a conviction requiring proof of three (3) prior unrelated felonies, the third prior unrelated felony conviction was committed after commission of and sentencing for the second prior unrelated felony conviction.

(g) A conviction does not count for purposes of this section as a prior unrelated felony conviction if:

- (1) the conviction has been set aside; or
- (2) the conviction is one for which the person has been pardoned.

(h) If the person was convicted of the felony in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing under IC 35-38-1-3. The role of the jury is to determine whether the defendant has been convicted of the unrelated felonies. The state or defendant may not conduct any additional interrogation or questioning of the jury during the habitual offender part of the trial.



(i) The court shall sentence a person found to be a habitual offender to an additional fixed term that is between:

- (1) six (6) years and twenty (20) years, for a person convicted of murder or a Level 1 through Level 4 felony; or
- (2) two (2) years and six (6) years, for a person convicted of a Level 5 or Level 6 felony.

An additional term imposed under this subsection is nonsuspendible.

(j) Habitual offender is a status that results in an enhanced sentence. It is not a separate crime and does not result in a consecutive sentence. The court shall attach the habitual offender enhancement to the felony conviction with the highest sentence imposed and specify which felony count is being enhanced. If the felony enhanced by the habitual offender determination is set aside or vacated, the court shall resentence the person and apply the habitual offender enhancement to the felony conviction with the next highest sentence in the underlying cause, if any.

(k) A prior unrelated felony conviction may not be collaterally attacked during a habitual offender proceeding unless the conviction is constitutionally invalid.

(l) The procedural safeguards that apply to other criminal charges, including:

- (1) the requirement that the charge be filed by information or indictment; and
- (2) the right to an initial hearing;

also apply to a habitual offender allegation.

SECTION 18. IC 35-50-2-11, AS AMENDED BY P.L.152-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "offense" means:

- (1) a felony under IC 35-42 that resulted in death or serious bodily injury;
- (2) kidnapping; or
- (3) criminal confinement as a Level 2 or Level 3 felony.

(c) As used in this section, "police officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A city police officer.
- (5) A state educational institution police officer appointed under IC 21-39-4.



**(6) A school corporation police officer appointed under IC 20-26-16.**

**(7) A police officer of a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2.**

**(8) An enforcement officer of the alcohol and tobacco commission.**

**(9) A conservation officer.**

~~(c)~~ **(d)** The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

**(e) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed a felony or misdemeanor other than an offense (as defined under subsection (b)) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing the felony or misdemeanor, knowingly or intentionally:**

**(1) pointed a firearm; or**

**(2) discharged a firearm;**

**at an individual whom the person knew, or reasonably should have known, was a police officer.**

~~(d)~~ **(f)** If the person was convicted of:

**(1) the offense under subsection (d); or**

**(2) the felony or misdemeanor under subsection (e);**

in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

~~(e)~~ **(g)** If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense **under subsection (d)**, the court may sentence the person to an additional fixed term of imprisonment of between five (5) years and twenty (20) years.

**(h) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing a felony or misdemeanor under subsection (e), knowingly or intentionally:**

**(1) pointed a firearm; or**



**(2) discharged a firearm;  
at an individual whom the person knew, or reasonably should have known, was a police officer, the court may sentence the person to an additional fixed term of imprisonment of between five (5) and twenty (20) years.**

**(i) A person may not be sentenced under subsections (g) and (h) for offenses, felonies, and misdemeanors comprising a single episode of criminal conduct."**

Delete page 24.

and when so amended that said bill do pass.

(Reference is to SB 559 as reprinted February 4, 2015.)

WASHBURN

Committee Vote: yeas 9, nays 0.

